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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAY 17 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re Application of )  
 )  
ELLIS THOMPSON CORPORATION ) CC Docket No. 94-136  
 )  
For facilities in the Domestic )  
Public Cellular Radio Tele- )  
communications Service on )  
Frequency Block A in Market )  
No. 134, Atlantic City, New Jersey )

To: Honorable Joseph Chachkin  
Administrative Law Judge

**JOINT MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR  
SUMMARY DECISION AND FOR CONTINUANCE OF PROCEDURAL DATES**

Ellis Thompson Corporation ("ETC"), American Cellular Network Corp. d/b/a Comcast Cellular ("Amcell"), Telephone and Data Systems, Inc. ("TDS"), and the Wireless Telecommunications Bureau ("Bureau"), the parties to the above-captioned proceeding, by their attorneys, hereby move for an extension of time to file a motion for summary decision and for a continuance of procedural dates pending action on such summary decision motion.

Based on a substantial volume of new evidence adduced through discovery, the parties believe there is no genuine issue as to any material fact and therefore, pursuant to Section 1.251 of the Commission's rules, 47 C.F.R. § 1.251, summary decision should be granted.

Discovery in this case commenced on December 20, 1994 with TDS' document production request and has been extensive. On March 16, 1995, both Amcell and ETC responded to TDS' Request for Production of Documents. A total of 68 boxes of documents have been produced collectively by Amcell and ETC in response to TDS and

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the Bureau's motions to compel. In addition, thirteen depositions have been taken over a two-week period ending May 15, 1995. Ten of the deponents were individuals employed by Amcell over the past seven or eight years who interacted with Ellis Thompson and his advisor David Lokting on matters directly responsive to the designated issue. Depositions were also taken of Mr. Thompson, Mr. Lokting and a veteran cellular operator with management and profit and loss responsibility for multiple markets nationwide.

As the Presiding Judge is aware, on March 23, 1995, ETC, Amcell, and TDS reached a settlement of their longstanding civil litigation.<sup>1/</sup> The settlement ultimately contemplates, inter alia, a transfer of control of Ellis Thompson Corporation, the Atlantic City non-wireline licensee, from Ellis Thompson to Amcell of Atlantic City, Inc., conditioned upon reinstatement of Ellis Thompson Corporation's license in the instant proceeding and grant of a long-pending transfer application (File No. 08715-CL-TC-01-92). No Commission approval is required with regard to the civil litigation settlement.

The hearing is currently set to begin on June 19, 1995. Section 1.251 of the Commission's rules, 47 C.F.R. § 1.251, requires that motions for summary decision be filed no later than twenty (20) days prior to the commencement of the hearing. Accordingly, if the present schedule of procedural dates remains in effect, motions for summary decision must be filed on or before May

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<sup>1/</sup> See Letter to Honorable Joseph Chachkin, dated March 28, 1995 (Attachment 1).

30, 1995.

In order to allow time for the parties to review and correct the deposition transcripts, assemble the extensive documentary evidence, and draft and circulate for comment a comprehensive motion, the parties respectfully request an extension of time until June 30, 1995 to file their motion for summary decision. The parties also propose a continuance of procedural dates until the Presiding Judge has ruled on the motion for summary decision.

The following outstanding procedural dates would be affected by the proposed continuance:

June 5	Exchange of written direct cases by all parties.
June 12	Notices of witnesses to be produced for cross-examination.
June 14	Objections to cross-examination requests.
June 16	Presiding Judge to rule on objections.
June 19	Hearing scheduled to commence.

The parties submit that the brief extension of time requested will not adversely affect the Presiding Judge's consideration of the above-captioned matter in a timely manner. The continuance of procedural dates will potentially conserve the Commission's scarce resources and expedite the conduct of its business, if the Presiding Judge rules, as the parties will contend, that there is no genuine issue of material fact, obviating the need for a hearing. For these reasons, grant of the parties' request is in the public interest.

Wherefore, the parties respectfully request that this motion

be granted.

Respectfully submitted,

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May 17, 1995

ATTACHMENT 1

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March 28, 1995

Honorable Joseph Chachkin  
Administrative Law Judge  
Federal Communications Commission  
Room 226  
2000 L Street, N.W.  
Washington, D.C. 20554In re: Ellis Thompson Corporation, CC  
Docket Number 94-136

Dear Judge Chachkin:

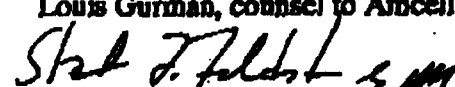
On behalf of Telephone and Data Systems, Inc. (TDS), Ellis Thompson Corporation (Thompson), and American Cellular Network Corp. (Amcell), the private parties to CC Docket Number 94-136, this is to advise you that on March 23, 1995 they entered into a settlement agreement.

The settlement agreement contemplates the settlement of civil litigation involving the Atlantic City system in which TDS, Thompson, and Amcell have been involved for many years. The settlement agreement does not provide for the dismissal of any petition to deny or other pleading filed with the Commission by TDS, and following consultation with counsel to the Chief, Wireless Telecommunications Bureau, it has been determined by the private parties not to require Commission approval. We have been informally advised that counsel to the Chief, Wireless Telecommunications Bureau, concurs in this assessment.

Under a merger agreement executed concurrently, Amcell will purchase from TDS its majority interest in a Vineland, New Jersey cellular system and its minority interests in and option rights with respect to the Thompson Atlantic City cellular system. Amcell's Vineland acquisition, and any subsequent acquisition of the Atlantic City system, will be subject to prior Commission consent.

TDS intends to carry its burden of proceeding as set forth in the *Hearing Designation Order*, but will support a grant of the Thompson application.

Very truly yours,

  
Alan Y. Naftalin, counsel to TDS  
Louis Gurman, counsel to Amcell  
Stuart F. Feldstein, counsel to Thompson

cc: Joseph Paul Weber, Esq.

**CERTIFICATE OF SERVICE**

I, Dawn Brodus-Yougha, a secretary in the law offices of Gurman, Blask and Freedman, Chartered, do hereby certify that I have on this 17th day of May, 1995, had copies of the foregoing "Joint Motion for Extension of Time to File Motion for Summary Decision and for Continuance of Procedural Dates" mailed by U.S. first class mail, postage prepaid, to the following:

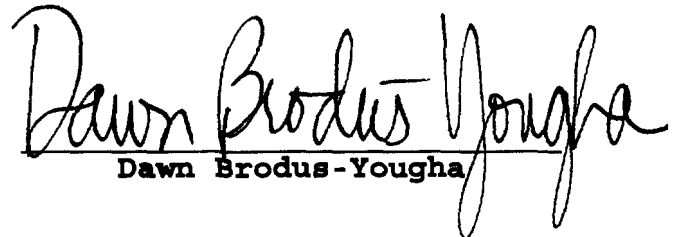
- \* Honorable Joseph Chachkin  
Federal Communications Commission  
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Washington, D.C. 20554
- \* Joseph Paul Weber, Esquire
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